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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION
HONORABLE DAVID O. CARTER, U.S. DISTRICT JUDGE

MY CHOICE SOFTWARE, LLC,)	
)	
Plaintiff,)	Certified Transcript
)	
vs.)	Case No.
)	8:22-cv-01710-DOC-DFM
TASKUS, INC., et al.,)	
)	
Defendants.)	
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
MOTION TO DISMISS
MONDAY, MAY 1, 2023
9:17 A.M.
SANTA ANA, CALIFORNIA

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1 **SANTA ANA, CALIFORNIA; MONDAY, MAY 1, 2023**

2 **9:17 A.M.**

3 - - -

09:17AM 5 THE COURT: My Choice Software vs. TaskUs.

6 Can I get an appearance by the plaintiff.

7 MR. HANSEN: Yes, Your Honor. Good morning. Craig
8 Hansen appearing for Plaintiff My Choice Software.

9 THE COURT: You're Craig Sanders?

09:17AM 10 MR. HANSEN: Craig Hansen.

11 THE COURT: Craig Hansen. Just a moment.

12 Who's Bruno Tarabichi?

13 MR. HANSEN: He's my colleague.

14 THE COURT: Okay. Thank you.

09:17AM 15 Who's Sarah Wager?

16 MR. HANSEN: Also my colleague.

17 THE COURT: Remember, we get a raft of names coming
18 in and we never know who's here.

19 You're lead counsel?

09:17AM 20 MR. HANSEN: I am.

21 THE COURT: Nice meeting you.

22 Where are your offices located?

23 MR. HANSEN: San Jose.

24 THE COURT: Okay. I lived in Fremont for a while so
09:18AM 25 you catch South- -- no, American Airlines coming down here.

1 You're -- well, I've got seven names here. So I'm
2 not going to guess who are you.

3 MR. KABA: Good morning, Your Honor. Moez Kaba on
4 behalf of the three Shopify defendants.

09:18AM 5 THE COURT: Just a moment. K-a-b-a?

6 MR. KABA: Yes, Your Honor.

7 THE COURT: You're with Shopify. It's nice to meet
8 you.

9 Where are your offices located?

09:18AM 10 MR. KABA: I am in our Los Angeles office. We have
11 an office in Orange County, and we just opened an office in
12 New York.

13 THE COURT: But you in particular. In other words,
14 the reason I always ask that is to see if I can always get
09:18AM 15 counsel in and out if you're from out of state. But you're
16 local in a sense.

17 MR. KABA: I'm splitting my time between New York
18 and L.A., but I am here.

19 THE COURT: Okay. Nice meeting you.

09:18AM 20 Who are you?

21 MR. MISHRA: Sourabh Mishra from Hueston Hennigan on
22 behalf of the three Shopify defendants.

23 THE COURT: Who?

24 MR. MISHRA: Sourabh, S-o-u-r-a-b-h, last name
09:19AM 25 Mishra, M-i-s-h-r-a.

1 THE COURT: And who do you represent?

2 MR. MISHRA: The three Shopify defendants: Shopify,
3 Inc., Shopify USA, and Shopify Holdings.

4 THE COURT: Okay.

09:19AM 5 MR. PERSSON: Good morning, Your Honor. Spencer
6 Persson on behalf of Defendant TaskUs, Inc.

7 THE COURT: Thank you very much.

8 Who's Rachel Douglas?

9 MR. PERSSON: Rachel is one of my associates.

09:19AM 10 THE COURT: Who's Seth Tangman?

11 MR. PERSSON: He is also one of my associates.

12 THE COURT: Who's Christine Woodin?

13 MR. KABA: She's a colleague of ours, Your Honor.

14 THE COURT: Who's Allison Libeu?

09:19AM 15 MR. KABA: Same.

16 THE COURT: Why are they included on this list? And
17 it's okay if they are. Just why do I have the whole law firm?
18 I'm just kidding you.

19 Why are they included? Billable hours or what?

09:19AM 20 MR. KABA: Why are they included?

21 THE COURT: Why are they included?

22 MR. KABA: Your Honor, there's been a series of
23 cases filed. So we have a team of people working on these
24 cases today. In the interest of efficiency, just Mr. Mishra
09:20AM 25 and I are here on a --

1 THE COURT: And you're lead counsel?

2 MR. KABA: I am lead counsel, Your Honor.

3 MR. MISHRA: I'm supporting Mr. Kaba.

4 THE COURT: Okay. That's fine.

09:20AM 5 MR. KABA: Sometimes I think I'm supporting
6 Mr. Mishra, but technically, I am lead counsel, Your Honor.

7 THE COURT: No problem.

8 First on page 2, are both defendants joined -- and
9 you have to help me -- are both defendants joined in the motion
09:20AM 10 concerning forum selection clause, or is this clause only
11 specific to Shopify?

12 MR. KABA: Your Honor, just so I can be clear, when
13 you refer to both defendants, are you referring to all of the
14 Shopify entities and TaskUs?

09:21AM 15 THE COURT: Yes.

16 MR. KABA: Okay. Our motion on behalf of --

17 THE COURT: Let's start with does this apply to all
18 Shopify entities?

19 MR. KABA: It does, Your Honor.

09:21AM 20 THE COURT: Does it apply to the codefendant as
21 well? Is there a forum selection clause --

22 MR. PERSSON: No. The forum selection clause does
23 not apply to TaskUs.

24 THE COURT: Only as to Shopify. Okay.

09:21AM 25 And you believe that as to the three Shopify

1 defendants, that this forum selection clause would lead to the
2 forum being Canada; is that correct.

3 MR. KABA: Yes, Your Honor. That's the forum the
4 parties selected in their contract.

09:21AM 5 THE COURT: I don't know enough about your case. I
6 say that humbly right now. If you are correct, that would
7 leave, at least for jurisdiction purposes, the codefendant in
8 this case.

9 MR. KABA: I believe actually the codefendant is
09:22AM 10 also moved to dismiss for lack of -- that this is not the right
11 court, but --

12 MR. PERSSON: Yeah, we've moved on jurisdictional
13 grounds as well, but that wouldn't be under the forum selection
14 clause, that would be based on principal place of business.

09:22AM 15 THE COURT: These forum selection causes are pretty
16 easy to decide. I mean, it's in writing, et cetera. The
17 others take some analysis in the proper forum, et cetera.

18 But on the forum selection clause, if you are right,
19 I could be in the position of granting your motion and denying
09:22AM 20 your motion. And I'm trying to weigh the future of what that
21 looks like in two different forums. We haven't gotten there
22 yet.

23 I don't know what I'm going to do with your forum
24 selection clause yet. I wanted to speak to you first before I
09:23AM 25 weighed into that, nor do I know about your motion to dismiss

1 brought by the codefendant.

2 MR. KABA: Your Honor.

3 THE COURT: I'm looking at the bottom of page 5.

4 And assuming that we got into litigation, and assuming this was
09:24AM 5 the proper forum, I see 423,179 records. Somebody put this
6 into a scheduling conference report to apparently tell me that
7 this was a voluminous document case. In other words, usually
8 we put that in to tell the judge that this is so complex.

9 What are these records?

09:24AM 10 MR. HANSEN: I can speak to that, Your Honor.

11 THE COURT: Yeah.

12 MR. HANSEN: So that comes from our allegations,
13 Your Honor. Those are the My Choice documents and records that
14 were infiltrated as part of the data breach.

09:24AM 15 THE COURT: Readily accessible?

16 MR. HANSEN: Yes.

17 THE COURT: So you don't have to go on a fishing
18 expedition. These are easily obtained by the plaintiff?

19 MR. HANSEN: I would -- well, we would need to
09:25AM 20 obtain them from the defendants.

21 THE COURT: And why would I be asking that silly
22 question to both of you? You're excellent counsel.

23 MR. HANSEN: I believe you're gauging the level of
24 complexity of discovery in this case.

09:25AM 25 THE COURT: Right. It's whether I'm going to get a

1 special master right away, what my deposition problems are,
2 where your folks are located, whether they're in Canada or
3 here, you know, if I'm going to drag you in here every two
4 weeks or get a special master at your convenience. That's why
09:25AM 5 I'm asking. You're absolutely right.

6 And you believe that you're asking for damages of
7 over \$100 million?

8 MR. HANSEN: That's our estimate now.

9 THE COURT: Okay. The data breach that occurred, it
09:25AM 10 appears, at least from reading the scheduling conference, that
11 you have a belief that that isn't difficult to prove because
12 there's almost an admission of that, and then Shopify's good
13 faith efforts to rectify that from their perspective.

14 And, also, that this was a person primarily out of
09:26AM 15 their control. And how that flies with the jury, what the
16 employment situation was, I don't know. You probably are
17 looking at negligence minimally, lack of oversight for want of
18 a better word.

19 So regardless how far Shopify tries to distance
09:26AM 20 themselves, if it's still an employee, especially if the
21 employee had good records in the past or even bad records and
22 didn't fire them --

23 MR. KABA: Your Honor, it wasn't an employee.

24 THE COURT: Was it a contractor?

09:26AM 25 MR. KABA: It was -- so Shopify contracted with

1 TaskUs. It was an individual who had an affiliation
2 association with TaskUs. Mr. Heinrich, who has been criminally
3 charged, pled guilty to this.

4 THE COURT: That's why you sued?

09:27AM 5 MR. KABA: I'm sorry?

6 THE COURT: Cross-Complaint?

7 MR. KABA: We have not sued Mr. Heinrich. We have
8 not currently sued TaskUs, but --

9 THE COURT: Why?

09:27AM 10 MR. KABA: I think the statute of limitations has
11 not run. And I think because this suit has been filed, there
12 have been some other suits filed. At the moment, we are trying
13 to address the litigation that has been filed.

14 THE COURT: Where are the other suits that have been
09:27AM 15 filed?

16 MR. KABA: I apologize.

17 THE COURT: No, that's my fault.

18 Where are the other suits filed?

19 MR. KABA: There is a suit that has been filed by
09:27AM 20 this same plaintiff alleging the same cause of -- one of the
21 same causes of action in state court in California.

22 THE COURT: Okay.

23 MR. KABA: There is a suit -- did you ask why?

24 THE COURT: Yeah.

09:28AM 25 MR. KABA: There's a suit that has been filed by a

1 consumer in Delaware.

2 THE COURT: I see. Represented by the same counsel?

3 MR. KABA: Different -- we now represent Shopify in
4 that suit as well. They were --

09:28AM 5 THE COURT: I'm sorry, same plaintiff's counsel?

6 MR. KABA: No, Your Honor. This plaintiff's counsel
7 actually doesn't even represent this plaintiff in the state
8 court action. It's led to a little bit of confusion on our
9 part about why there are two lawsuits both asserting a
09:28AM 10 negligence cause of action.

11 When we asked the plaintiff's counsel in the state
12 court case, they told us "We're going to dismiss our case."
13 And then we found out they weren't dismissing our case. So
14 we've been a little bit -- just confused about how to deal with
09:28AM 15 the plaintiff ourselves.

16 THE COURT: Have you had any contact with the
17 plaintiff in the state court action?

18 MR. HANSEN: With the plaintiff or the plaintiff's
19 counsel?

09:28AM 20 THE COURT: I'm sorry, plaintiff's counsel.

21 MR. HANSEN: Yes. Minimal contact, Your Honor.

22 THE COURT: Well, that means some contact. So the
23 answer is "yes"?

24 MR. HANSEN: The answer is "yes."

09:28AM 25 THE COURT: Okay. Good.

1 And is it LA Superior Court, Orange County Superior
2 Court?

3 MR. KABA: San Francisco, Your Honor.

4 THE COURT: San Francisco. Okay.

09:29AM 5 So we have a state court proceeding going forward
6 and a federal proceeding, different claims, of course.

7 MR. HANSEN: I understand that the state court case
8 is a class action filed by a class action firm. My client is
9 the plaintiff in both cases, but I know of no affiliation with
09:29AM 10 class action counsel.

11 THE COURT: No. But regardless, your client is
12 involved in both the state and federal?

13 MR. HANSEN: Correct, Your Honor.

14 THE COURT: So get two bites out of the apple. Just
09:29AM 15 joking.

16 So what's going to happen with our state case? Why
17 wouldn't we simply resume supplemental jurisdiction on that?

18 MR. HANSEN: That is a possibility.

19 THE COURT: It is. Or I can give the state back to
09:29AM 20 the state, but do you have CAFA grounds for being here? In
21 other words, what's our jurisdiction? CAFA?

22 MR. HANSEN: We have the -- a diversity jurisdiction
23 here.

24 THE COURT: That's CAFA. Well, you don't have a
09:30AM 25 class action, I'm sorry. I'm wrong about that. You don't have

1 CAFA. You have complete diversity here.

2 MR. HANSEN: Correct.

3 THE COURT: Well, I can see the case potentially, if
4 Shopify is successful, on a forum selection clause. I mean
09:30AM 5 hypothetically going up to Canada on a California action.
6 You're still left, hypothetically. I mean, I'm giving us the
7 worst-case scenario. I'm not making a ruling.

8 MR. KABA: Your Honor, can I just correct one thing?

9 THE COURT: Sure.

09:30AM 10 MR. KABA: This isn't -- there isn't complete
11 diversity. There is a -- actually a federal claim that's been
12 asserted. There's computer fraud and abuse. I believe that's
13 the reason why we're here.

14 Counsel can correct me if I'm wrong, but -- for
09:30AM 15 example, Your Honor, plaintiff is a California limited
16 liability company, and one of the -- Mr. Heinrich, who's the
17 one that pled guilty, is also a California resident. So that
18 would destroy diversity. But there is a federal claim here.

19 We have not yet been served in the state court
09:31AM 20 action, but we expect that we will accept service in the near
21 term. And, Your Honor, our motion to dismiss that is on behalf
22 of the Shopify entities in addition to the forum selection
23 clause argument, which, as Your Honor pointed out, is often
24 clear, there's even a breach of contract case against us
09:31AM 25 arising out of that very contract.

1 We also have personal jurisdiction arguments, and we
2 also have traditional 12(b) arguments. So when we get served
3 with a state court case, we may well end up having to pursue
4 the forum selection clause argument again in that case. That's
09:31AM 5 sort of the lay of the land.

6 THE COURT: For judicial efficiency, I don't want to
7 see the plaintiffs getting multiple bites out of the apple on
8 the same fact situation.

9 MR. KABA: I agree.

09:32AM 10 THE COURT: By the same token, I don't like the
11 scattering, if you are correct, on the forum selection clause
12 with three different jurisdictions involved, potentially the
13 state, the federal here, if you remain, hypothetically, and
14 Canada. That's somewhat ridiculous also.

09:32AM 15 MR. KABA: I do believe, Your Honor, that the forum
16 selection clause argument will apply with equal force in that
17 state court action. We just haven't had a reason yet to
18 present it. And we may, Your Honor, even in that state court
19 action removed to federal court when we get served under, as
09:32AM 20 you point out, CAFA.

21 THE COURT: That leaves our codefendant who I want
22 to talk to for a moment. Let's assume the worst and hope for
23 the best from your perspective. Let's assume you're still
24 here. And let's assume that the forum selection clause is
09:32AM 25 granted by the Court. You're left as a defendant. You still

1 have to bring in many of the same witnesses, many of the same
2 parties to defend yourself, at least from Shopify, don't you?

3 MR. PERSSON: Perhaps. Yes.

4 THE COURT: Well, that's perhaps, yes, but which
09:33AM 5 one? I'm joking with you.

6 In other words, if you're planning your defense,
7 one's going to have to be tied into Shopify and what that
8 relation was, isn't it?

9 MR. PERSSON: Yes. The answer ultimately is that
09:33AM 10 the computer is even -- that TaskUs was using were Shopify
11 computers. So necessarily there would be something that would
12 be needed from Shopify should Your Honor decide against us on
13 our jurisdiction.

14 THE COURT: And let's assume you have a lot of
09:33AM 15 documentation that you need -- or some documentation. Now you
16 have another party in this forum selection clause if I granted
17 that. And you're dealing with Shopify over here trying to get
18 these documents if you need them. And I'm not sure you need
19 them, but if you need them -- and that can be an interesting
09:33AM 20 effort on your part if they're not as cooperative as you'd
21 like. Especially if they think that that harms a case up in
22 Canada, or if counsel there decides it's to their tactical
23 advantage to proceed in X speed when I'm proceeding in X speed.
24 And my speed -- trust me -- will be a lot faster than Canada.
09:34AM 25 So if you're left, there's going to be tremendous pressure on

1 you to get these documents together. And I don't know if you
2 need them or not.

3 MR. PERSSON: Yes.

4 THE COURT: Let's just leave it at that. I'm trying
09:34AM 5 to think of all the parade of horrors that can occur
6 because -- okay.

7 Let's turn to page 12 and get more information for a
8 moment. I want to read to you, so you don't have to pull out
9 that page, lines 19 to 23:

09:35AM 10 "On March 2nd, Superior Court Judge Ethan
11 Schulman" --

12 San Francisco?

13 MR. KABA: Yes, Your Honor.

14 THE COURT: -- "issued an order continuing the
09:35AM 15 March 7, 2023 case management conference. He cited
16 plaintiff's case management conference statement
17 that he had apparently represented that a related
18 action is pending the U.S. District Court for the
19 Central District of California, and the parties are
09:35AM 20 actively working to settle both cases."

21 So somebody must have told Judge Schulman that
22 you're actively working to settle both cases. I want you to
23 tell me about that active negotiation between the two of you.
24 When did you meet, who talked to whom? Because I don't believe
09:35AM 25 you right now.

1 MR. KABA: Your Honor, that statement that
2 plaintiff --

3 THE COURT: Is that statement false?

4 MR. KABA: That statement is false. We -- the only
09:36AM 5 discussion --

6 THE COURT: See how intuitive I am? Who made that
7 statement?

8 MR. KABA: Plaintiff MCS's counsel in the state
9 court. Not counsel here.

09:36AM 10 THE COURT: Who's the counsel in state court?

11 MR. HANSEN: Mr. Rich Quintilone.

12 THE COURT: How are we going to get the gentleman
13 here? I want to speak to him. In other words, a front to my
14 Superior Court colleagues is a concern to me and vice versa.
09:36AM 15 And you can already see the disconnected information in which
16 you two are not parties to.

17 Do you understand that?

18 In fact, let me put on the record how much I'm
19 enjoying counsel, that they're excellent counsel, so we get
09:36AM 20 that out of the way.

21 But you can see the gamesmanship being played back
22 and forth, can't you? And after 24 years, I just love these
23 games.

24 Where is your client located again?

09:36AM 25 MR. HANSEN: Lake Forest.

1 THE COURT: Where is your client located?

2 MR. KABA: Your Honor?

3 THE COURT: Where is your client located?

4 MR. KABA: We have three entities.

09:36AM 5 THE COURT: Where are your clients located?

6 MR. KABA: One of them is in Ontario, Canada; one of
7 them is in New York; and one of them is a Delaware company.

8 THE COURT: Well, do you mind if I call
9 Judge Schulman? I think he and I want to have a conversation
09:37AM 10 about the gamesmanship taking place here. And I think he
11 should be aware of this statement because I'm not hearing any
12 act of settlement negotiations unless you represent to me
13 you're involved in settling this case with the state court
14 action.

09:37AM 15 MR. HANSEN: No, Your Honor. I've had amicable
16 discussions with my opposing counsel, and I think we all agree
17 we're not in a position to discuss settlement until the initial
18 pleading issues are resolved.

19 THE COURT: How do we make this statement, if any of
09:37AM 20 you are aware, to my state court colleague, that the parties
21 are actively working to settle both cases? I'm certainly not
22 hearing that. In fact, that's an absolute flagrant and false
23 statement.

24 MR. KABA: And, Your Honor, when we are finally --
09:37AM 25 service is effected on us, we do intend to tell Judge Schulman

1 we were not a party to that case management conference
2 statement. We intend to tell him that all that we had been
3 told from plaintiffs in the state court case was they were
4 going to dismiss that action. That is what we were told.

09:38AM 5 Later we find out that action, not only is it not
6 dismissed, but we just came upon this statement. It was not --
7 it was not something that we would have been present for.

8 MR. PERSSON: And, Your Honor, on behalf of TaskUs,
9 we've never had any conversation. We didn't even have that
09:38AM 10 conversation about the potential dismissal.

11 THE COURT: You see how potentially misleading that
12 would be in my court if that statement was made? Because I
13 would pay deference to my colleagues in the state court and pay
14 deference to you as counsel. And if that's being made in state
09:38AM 15 court -- and I don't know if this is true or not. That's
16 unfair on my part -- but if this is made under penalty of
17 perjury, you could see how my state court colleague is delaying
18 his case thinking that something might be happening here in the
19 federal court.

09:38AM 20 MR. KABA: Absolutely, Your Honor.

21 THE COURT: That's a little troublesome if that
22 occurred.

23 MR. PERSSON: And, Your Honor, one of the reasons
24 the statement may have been made and, obviously, I did not make
09:39AM 25 the statement so I hesitate to attribute scienter, but they

1 filed that case in September.

2 THE COURT: I wouldn't answer on his behalf right
3 now. I wouldn't put yourself in that position.

4 Well, how are we going to get the other parties
09:39AM 5 here? In other words, what's your best solution? Because the
6 other party in the state court will be here. I don't want to
7 inconvenience you folks, but I think Judge Schulman needs to be
8 involved also, so he can form his own opinions. And maybe we
9 need to have a little hearing.

09:39AM 10 So do you -- first of all, your client is suing in
11 both forums. They've just invited the attorneys. You
12 represent you're not involved with the state litigators.

13 What are the names of the state litigators?

14 MR. HANSEN: The attorney?

09:39AM 15 THE COURT: Yes.

16 MR. HANSEN: That's Richard Quintilone.

17 THE COURT: Okay. Richard Quintilone. How do I
18 spell his last name?

19 MR. HANSEN: I think it's fairly phonetic. I don't
09:40AM 20 have the spelling in front of me.

21 MR. KABA: Your Honor, we can pull it up.

22 THE COURT: Okay. Go ahead and pull it up.

23 MR. KABA: Quintilone, Q-u-i-n-t-i-l-o-n-e.

24 THE COURT: O-l --

09:40AM 25 MR. KABA: Q-u-i-n-t-i-l-o-n-e.

1 THE COURT: All right. And do you know where the
2 offices are located?

3 MR. KABA: I believe in Lake Forest.

4 THE COURT: And where are you located?

09:41AM 5 MR. HANSEN: San Jose, Your Honor.

6 THE COURT: San Jose. And I don't want that part of
7 the record, but do you have a phone number?

8 MR. KABA: Just what's available on the Internet,
9 Your Honor.

09:41AM 10 THE COURT: And could you give that to the clerk of
11 the Court.

12 MR. KABA: We will write it down.

13 THE COURT: Now, what's your suggestion? I can do
14 this one of two ways. I'd like to be as kind as possible along
09:41AM 15 our journey here. First of all, I can request that he come in.
16 I can order him in, but in a sense, I don't have jurisdiction.
17 This is a state court matter.

18 Third, I can take a dramatic jump, which I'd like
19 not to, in filing an OSC in re contempt, but I don't feel
09:41AM 20 comfortable not hearing from him. And as soon as I file that,
21 whether I'm right or wrong, your malpractice insurance goes
22 through the roof, in other words, just by filing that. It's a
23 huge detriment to counsel. And I don't want to do that until I
24 hear from this person.

09:42AM 25 You represent both clients. And it's -- your client

1 is suing in two different forums. I might suggest we approach
2 this slowly to begin with, as kindly as possible. And you
3 might make a call and invite him to come in and see us today.

4 MR. HANSEN: I can certainly do that, Your Honor.

09:42AM 5 THE COURT: I think that would be the most kind
6 thing we can do right now until we get some more facts. And
7 you're all ordered to remain. We will sort this out sometime
8 today. But eventually, I'm going to have him here. It's how I
9 get him here and how detrimental that is that has to be a
09:42AM 10 concern to your client. Because in a sense, although you're
11 two different attorneys, I view your client as one entity,
12 okay?

13 So I'm here all day. Come on back in when you have
14 some contact with this person; otherwise, you're ordered to
09:43AM 15 remain in the area. You can go across the street and have a
16 coffee, but I'll be here all day until 3:00 o'clock. And then
17 I've got a meeting on some homeless cases with a couple mayors,
18 and then I'll be back about 4:30.

19 MR. KABA: We won't be reaching out to MCS.

09:43AM 20 THE COURT: No. No. I don't think it's appropriate
21 right now. I think that the best person to reach out -- unless
22 I start signing orders. If I start signing orders, it's
23 extraordinarily detrimental potentially to the other counsel,
24 which isn't fair, until he's here with an explanation. I've
09:43AM 25 got remedies along the way, which I choose not to use at the

1 time. We'll see how that works out.

2 Thank you very much. You're ordered to remain in
3 the area.

4 **(Other matters were heard; reported,**
5 **and not transcribed herein.)**

09:43AM

6 THE COURT: My Choice Software vs. TaskUs.

7 We're back on the record in the same matter,
8 22-0170.

9 Counsel, you've already made your appearances.

11:01AM

10 I think that the concern that the Court has that, I
11 think, all of us are starting to share is the representation
12 made to my colleague in the Superior Court and the inability to
13 get ahold of counsel -- just a moment. Let me retrace from my
14 record, once again, although you're both aware of it.

11:03AM

15 If I granted your forum selection clause, if you
16 were correct, hypothetically, a portion of this case would go
17 to Canada because of that forum selection clause, which would
18 leave the codefendant TaskUs potentially in this court, unless
19 the Court granted the motion lacking jurisdiction that you

11:03AM

20 brought before the Court. If I didn't, you'd be here. We'd
21 have one portion of the case in Canada, and we'd also then have
22 a state court case filed by your client as well as a federal
23 court case, although we have different counsel on each case.
24 And the representation on page 12:

11:04AM

25 "On March 2nd, 2023, Superior Court

1 Judge Ethan Schulman, issued an order continuing
2 the March 7, 2023 case management conference. He
3 cited, quote, 'plaintiff's case management
4 conference statement' that it apparently
11:04AM 5 represented, quote, that a related action is
6 pending in the U.S. District Court for the Central
7 District of California, and the parties are
8 actively working to settle both cases."

9 The representation on page 12, line 24, from the
11:05AM 10 parties is that:

11 "This was a false representation as MCS now
12 confirms that in this report the parties have not
13 had any discussions about settling either case, and
14 they certainly are not actively working to settle
11:05AM 15 both cases. The extent of the parties'
16 conversation was MCS's representation that it would
17 be voluntarily dismissing this state court
18 litigation, a position has been reversed days
19 later."

11:05AM 20 So what I see is my colleague in the Superior Court
21 believing that active settlement negotiations are taking place
22 here. And he probably believes in the state court that that's
23 going to wrap up both matters. So he's delaying proceeding.
24 And this Court's in the position of having heard -- and
11:06AM 25 statement on the record by both parties that there's no active

1 settlement discussions underway to settle either case. I think
2 we need, once again, to have a conversation with Richard
3 Quintilone. But you represented on both sides he's very
4 difficult to get ahold of.

11:06AM 5 If you've got a phone number, can you give that to
6 the clerk for just a moment. Let's get on the phone.

7 And Royal [sic], if we can call him for just a
8 moment in the form of the federal court calling, and if I can
9 speak to him in counsel's presence, okay?

11:06AM 10 MR. HANSEN: May I approach the clerk, Your Honor?

11 THE COURT: Certainly.

12 MR. KABA: I provided the number.

13 THE COURT: Don't say it out loud. Just bring it up
14 to the clerk.

11:06AM 15 **(Pause in proceedings.)**

16 THE COURT: And I don't want to inconvenience each
17 of you coming so far, but we need to find out so we're not
18 dividing out further what's happening in Superior Court,
19 federal court, maybe up in Canada, maybe back here. That's not
11:07AM 20 good judicial economy. And I'm a little concerned about the
21 representation made to my colleague Judge Schulman.

22 **(Telephonic conference with Mr. Quintilone's**
23 **law firm.)**

24 THE COURT: Hello. Can you hear me?

11:08AM 25 BECKY: Yes, I can.

1 THE COURT: This is Judge Carter. First of all,
2 thank you for your courtesy. How would we, through your best
3 efforts, get ahold of counsel? I've got counsel in my court,
4 and I don't want them inconvenienced any further. But by the
11:08AM 5 same token, we've got a situation where I'd like to speak to
6 your counsel.

7 BECKY: Okay. I have been unable to reach him. I
8 can certainly give you his cell phone number or --

9 THE COURT: Oh, no. I don't want to do that. I'd
11:08AM 10 rather have counsel have that. I want to do that through your
11 offices.

12 BECKY: Okay.

13 THE COURT: Do you have his calendar by any chance?
14 I'd like to set a date that would be convenient for all counsel
11:09AM 15 to return along with Mr. Quintilone.

16 BECKY: Thank you for that. I do have the calendar
17 in front of me.

18 What date were you looking at?

19 THE COURT: Well, is it possible this week on either
11:09AM 20 a Thursday or Friday?

21 MR. HANSEN: And, Your Honor, just so you're aware,
22 I'm leaving for a family vacation on Friday.

23 THE COURT: Well, it won't be Friday.

24 Either Thursday or a time next week, if possible.

11:09AM 25 MR. HANSEN: I will be out next week.

1 THE COURT: It won't be next week either.

2 Is Thursday possible?

3 MR. KABA: Your Honor, both Mr. Mishra and I are
4 traveling to the East Coast on Thursday. If one of my
11:09AM 5 colleagues --

6 THE COURT: No, no. You're all here. So let's make
7 it convenient. Also, let's give the gentleman plenty of time.

8 Perhaps the week after? Would that fit your
9 schedules?

11:09AM 10 MR. HANSEN: I'm returning on the 15th.

11 THE COURT: Just a moment. Before we speak to the
12 very nice person on the phone representing Mr. Quintilone or
13 the lady who is taking this, come up with a date, then, in two
14 or three weeks. There doesn't need to be any rush, but I need
11:10AM 15 him here. And I don't want to call Judge Schulman yet. I want
16 to see what these representations are being made between our
17 two courts.

18 BECKY: Okay. I definitely appreciate your working
19 with us. The 15th and the 16th, Monday or Tuesday, are open.

11:10AM 20 Would either of those dates work for Your Honor?

21 THE COURT: We'll make them work. How is that?
22 They're coming from a long ways.

23 Counsel, would the 15th or 16th work for you?

24 MR. KABA: The 16th works for us.

11:10AM 25 THE COURT: Okay.

1 MR. HANSEN: The 16th works, Your Honor.

2 THE COURT: Can we have that? I'll probably be in
3 trial on that day. Can we have that at 7:30 in the morning?

4 MR. KABA: Whatever time you'd like.

11:10AM 5 THE COURT: Well, you're coming at 7:30 then.

6 Could we work through you, then, as the person in
7 contact with Mr. Quintilone and get -- set this on his calendar
8 for 7:30 on March 16th? I think you're in Lake Forest, aren't
9 you?

11:11AM 10 BECKY: Yes. Correct.

11 THE COURT: Okay. Then I'll send out notice. And
12 can I send it also to your firm that he's ordered to come into
13 court on that date?

14 BECKY: Yes. Absolutely.

11:11AM 15 THE COURT: That way he'll have a formal document
16 and you're not caught with just a phone call. Fair enough?

17 BECKY: 16th at 7:30. And thank you, Your Honor.
18 My name is Becky.

19 THE COURT: Tuesday the 16th, 7:30.

11:11AM 20 Counsel, we'll send out a formal notice, but I need
21 the address.

22 Could you give us the proper address where we would
23 send that notice ordering the gentleman in?

24 BECKY: Quintilone & Associates is 22974 El Toro
11:11AM 25 Road, Suite 100.

1 THE COURT: Just a moment.

2 We've got it, Royal?

3 THE COURTROOM DEPUTY: Yes, Your Honor.

4 THE COURT: Okay. Lake Forest, California. What's
11:12AM 5 your ZIP code?

6 BECKY: 92630.

7 THE COURT: Okay. Counsel, does that work for
8 everyone? We'll accommodate Mr. Quintilone.

9 MR. HANSEN: I am flying back from France on the
11:12AM 10 15th. So being here on the 16th at 7:30 --

11 THE COURT: Then I could take the lunch hour. We'll
12 put you on CourtSmart instead.

13 So how about 12:00 noon?

14 MR. KABA: Sure.

11:12AM 15 THE COURT: Listen, could we change that from 7:30
16 to 12:00 noon? And my staff, that way, can take a break, but I
17 can go on CourtSmart and accommodate everybody if I'm in trial.
18 Fair enough?

19 BECKY: All right. That would be in person for
11:12AM 20 Mr. Quintilone; correct?

21 THE COURT: Absolutely.

22 BECKY: Okay. Thank you, Judge Carter. I
23 appreciate it.

24 THE COURT: Very kind of you to answer the phone.
11:12AM 25 Thank you very much. Bye-bye now.

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(Telephonic conference concluded.)

THE COURT: Okay, Counsel, then, noon, and we'll get you out of here. We'll take it over the noon hour in case I'm in trial and resolve it. Thank you for your courtesy.

(Proceedings conclude at 11:12 a.m.)

--oOo--

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STATE OF CALIFORNIA)

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